UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

AERITAS, LLC, Plaintiff v. STAPLES, INC, Defendants	**Case No. 6:22-cv-00985** **JURY TRIAL DEMANDED** **RELATED CASE**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Aeritas, LLC ("Aeritas" or "Plaintiff") files this Complaint for patent infringement against Staples, Inc. ("Staples" or "Defendant"), and alleges as follows:

NOTICE OF RELATED CASES

This case is related to the following active cases:

- *Aeritas, LLC v. WestJet Airlines, Ltd*, No. 6:20-cv-01161-ADA; and

- *Aeritas, LLC v. Office Depot, LLC*, No. 6:22-cv-00986

NATURE OF THE ACTION

1.   This is an action for patent infringement arising under 35 U.S.C. § 1 *et seq*.

PARTIES

2.   Aeritas is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business in Dallas, Texas.

3.   Upon information and belief, Defendant Staples, Inc is a corporation organized under the laws of the State of California with a principal place of business located at 500 Staples

Drive, Framingham, MA 01702. Defendant can be served with process through its registered agent, United States Corporation Company, 251 Little Falls Drive, Wilmington, DE 19808.

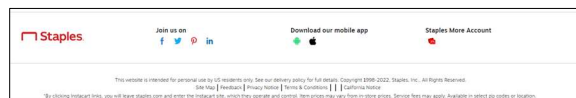## JURISDICTION AND VENUE

4.   This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5.   Upon information and belief, Defendant is subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.
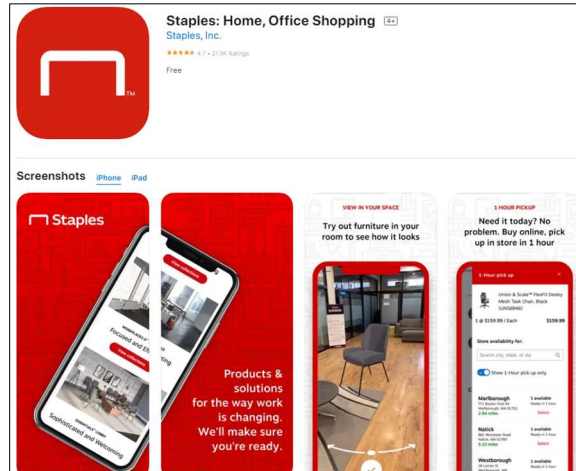
6.   Venue is proper in this judicial district under 28 U.S.C. §1400(b) because Defendant has committed acts of patent infringement in this District and has a regular and established place of business in this District. Specifically, Defendant has stores in this District, including at 2112 SW H.K. Dodgen Loop Suite 183, Temple, TX 76504. In addition, Aeritas has suffered harm in this District.
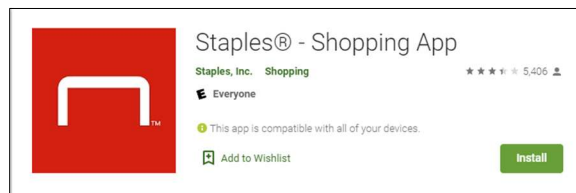
OVERVIEW OF THE STAPLES APP

7.   Defendant provides for its customers use the Staples App, which is available for use with iOS and Android devices:

https://www.staples.com/

https://apps.apple.com/us/app/staples-home-office-shopping/id376393873

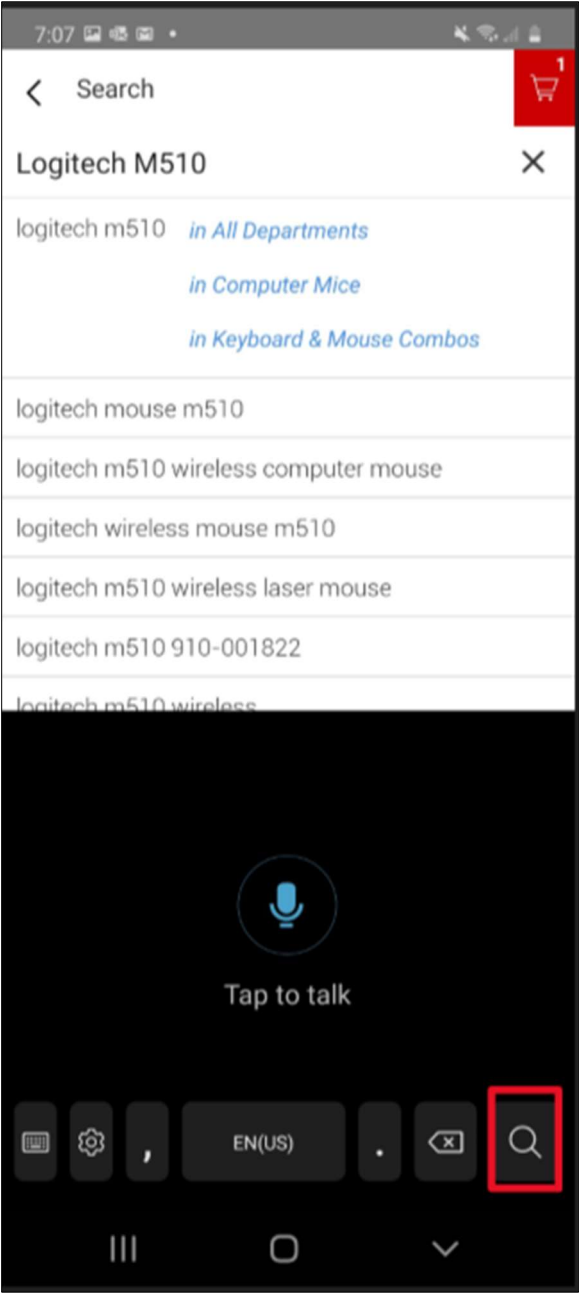https://play.google.com/store/apps/details?id=app.staples&hl=en_US

8.   To enable use of the enhanced features of the Staples App, a Staples server asks for permission to access the mobile device's location to determine the location of the user's device (e.g., upon receiving GPS coordinates from the mobile device) and will identify the closest Staples stores to the mobile device:
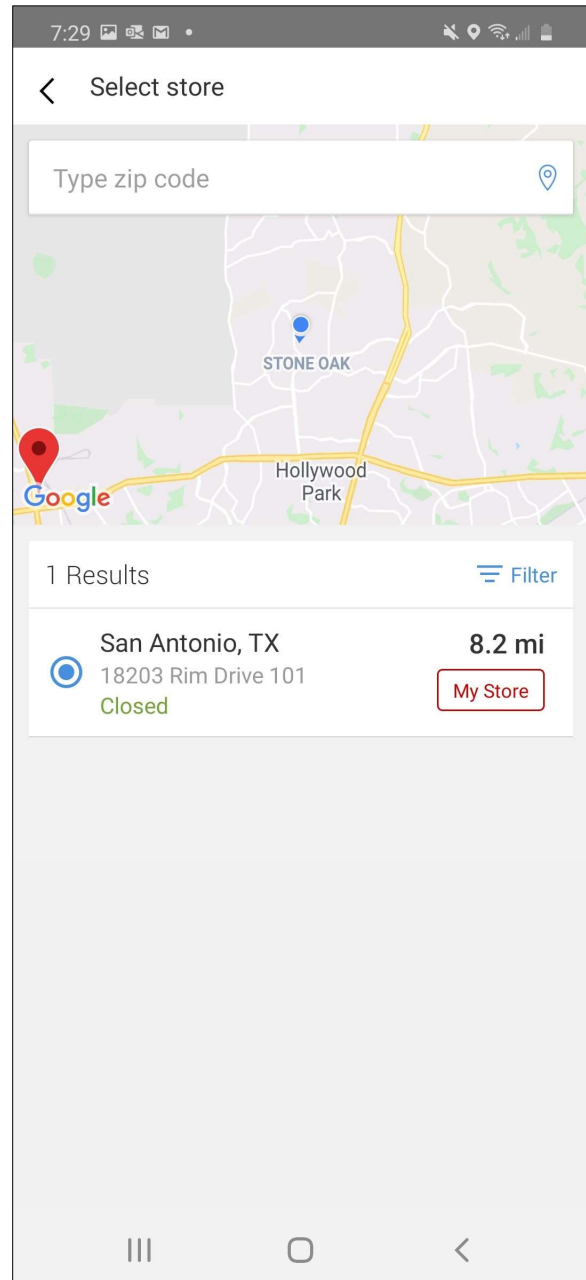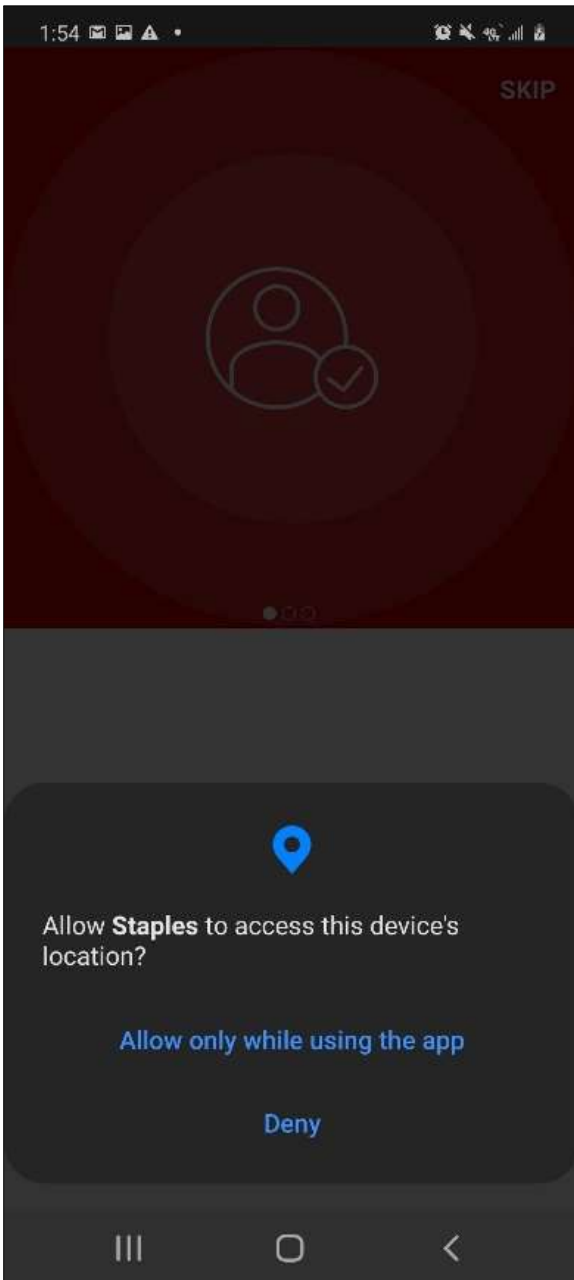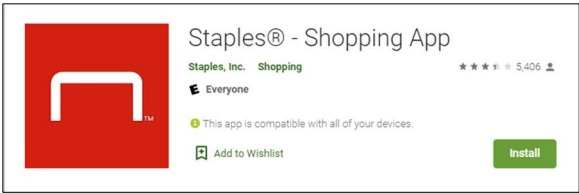
(Screenshots from Staples mobile application)

9.   When a user of the Staples App on an Android smartphone searches for a particular location using their voice, Staples receives spoken input from a wireless communication device.
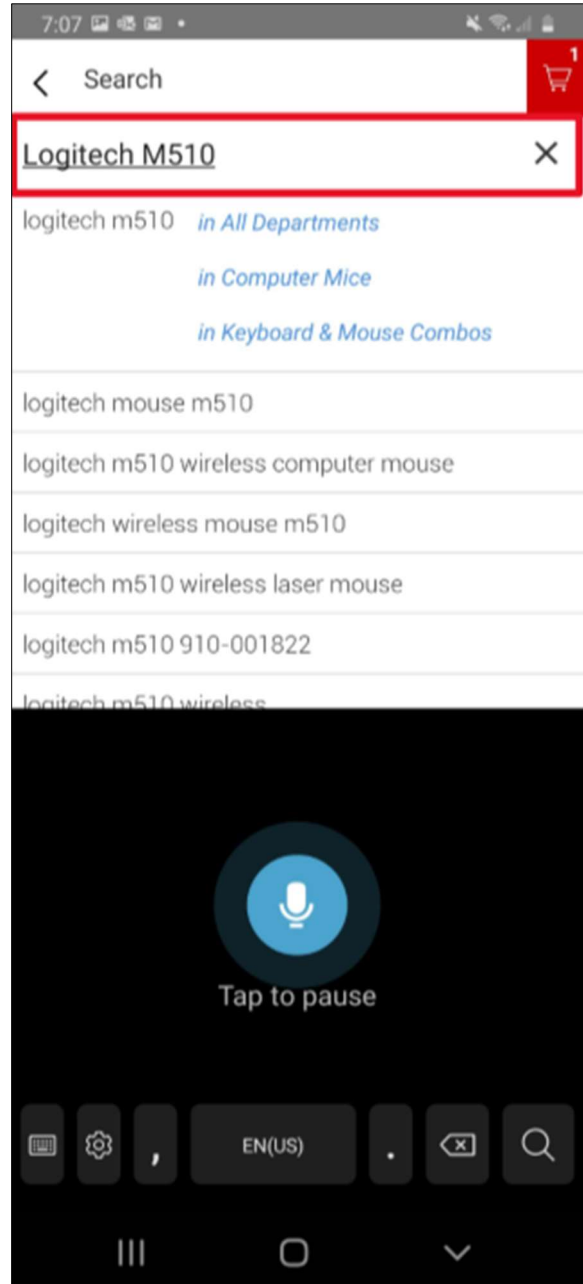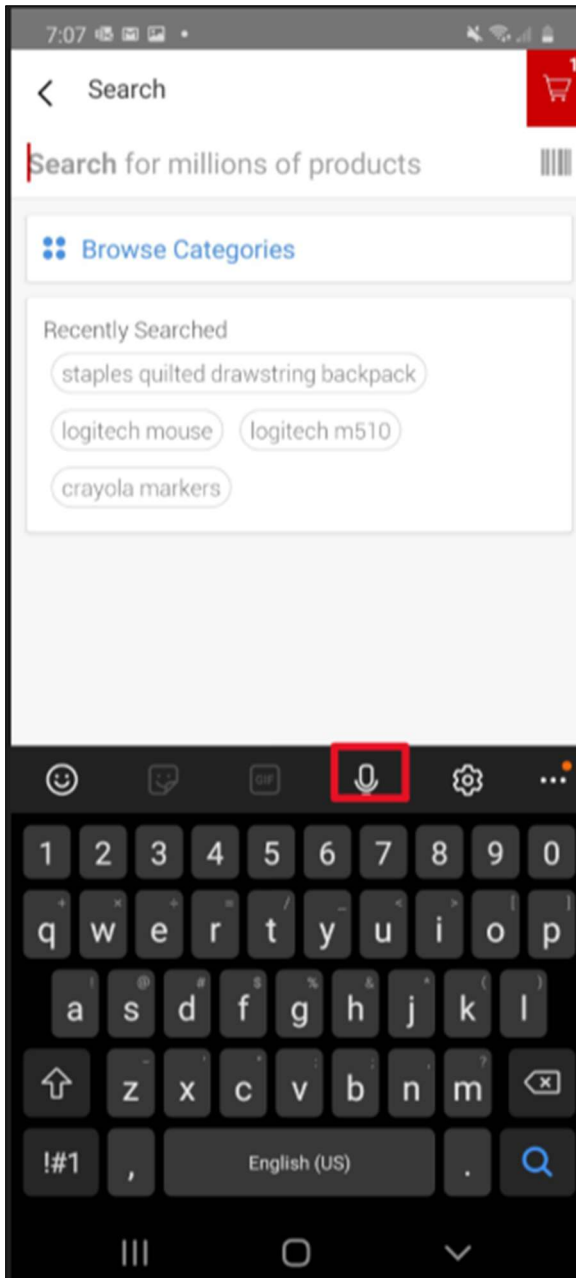
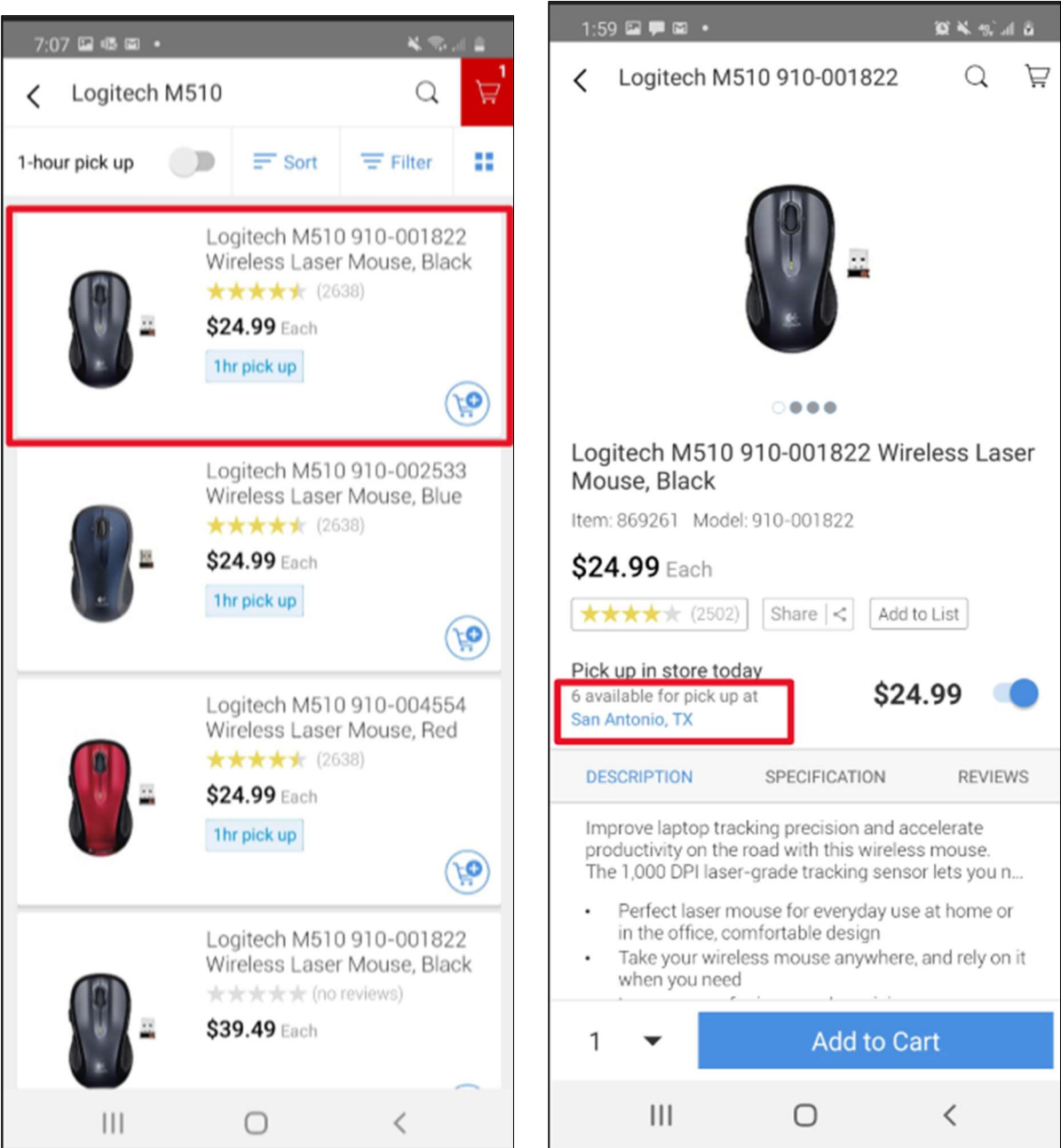(Screenshots from the Staples mobile application showing the process of using spoken input within the app)

https://play.google.com/store/apps/details?id=app.staples&hl=en_US

10.   A Staples notification server delivers a non-verbal response to the spoken input

(product page), including a drill down menu in the form of a "Pick up in store today" link.

(Screenshots from Staples mobile application)

11.   A Staples server provides additional information related to the retrieved information (distance and other information about nearby stores) in response to receipt of at least one additional input provided via the drill-down menu.
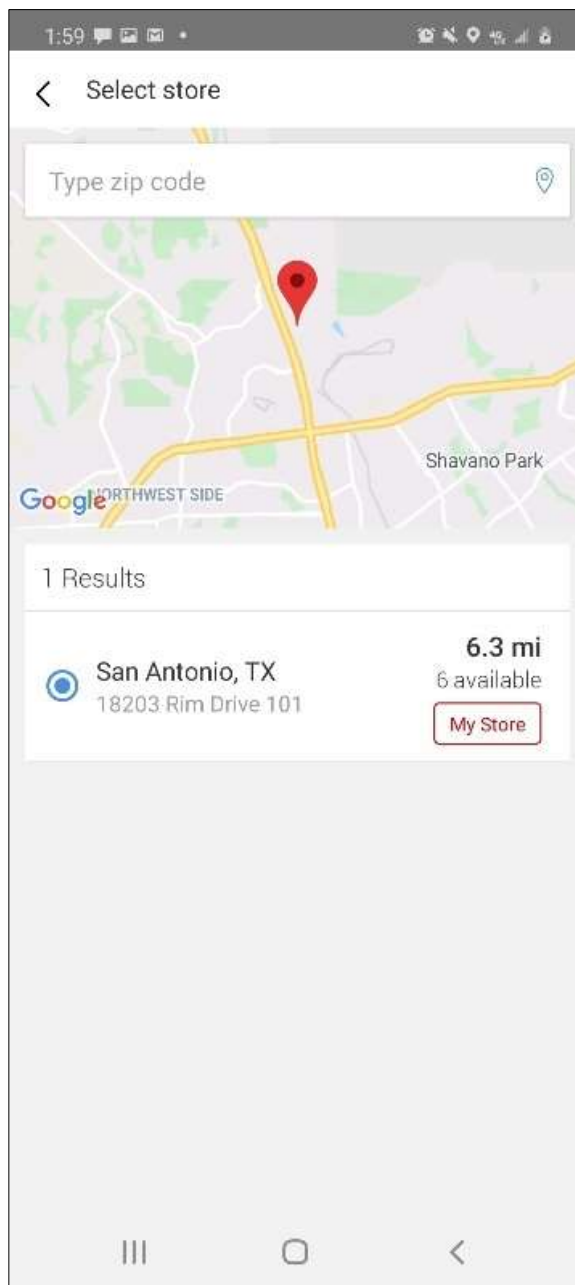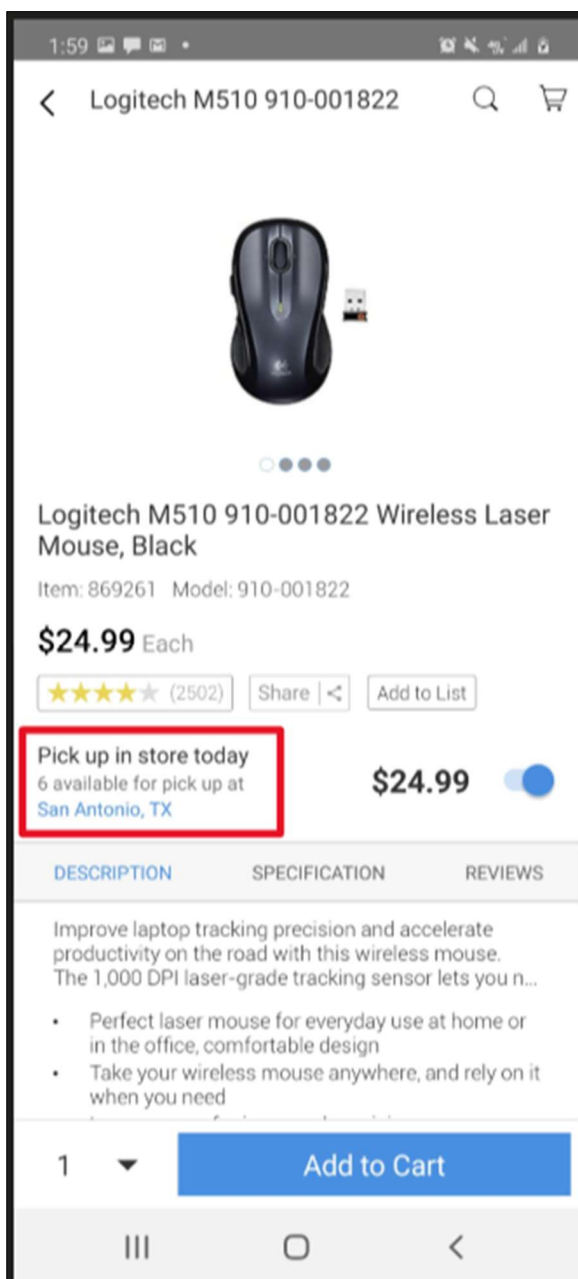
(Screenshots from Staples mobile application)

12.   The Staples App receives and stores consumer interest data (e.g., specific Staples locations can be favorites and are saved in the user's profile).
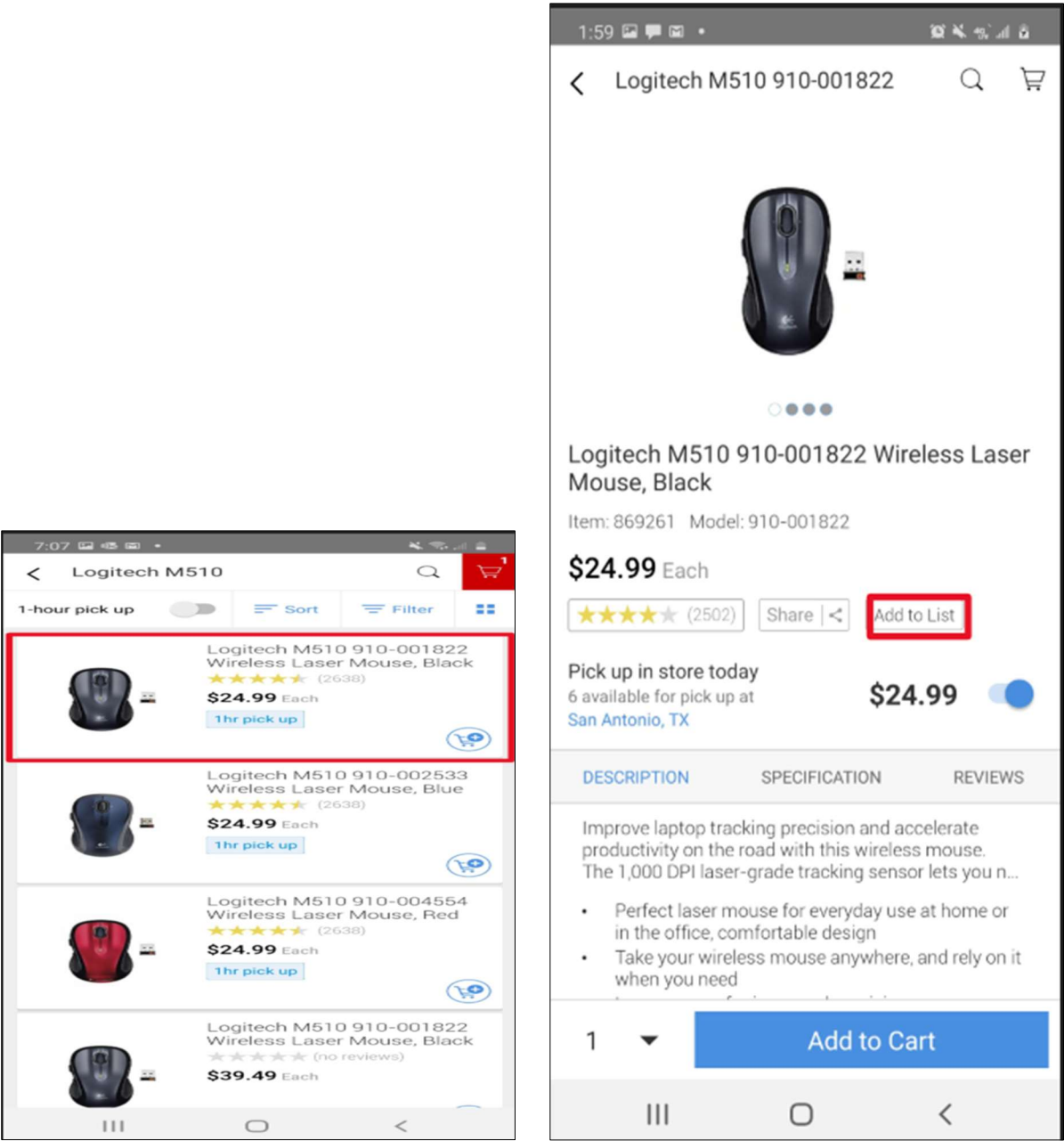
(Screenshots from Staples mobile application)

13.   The Staples App receives results from the search (store distance, store information, whether or not Pick Up order is available, etc.) and delivers that information to the mobile device.
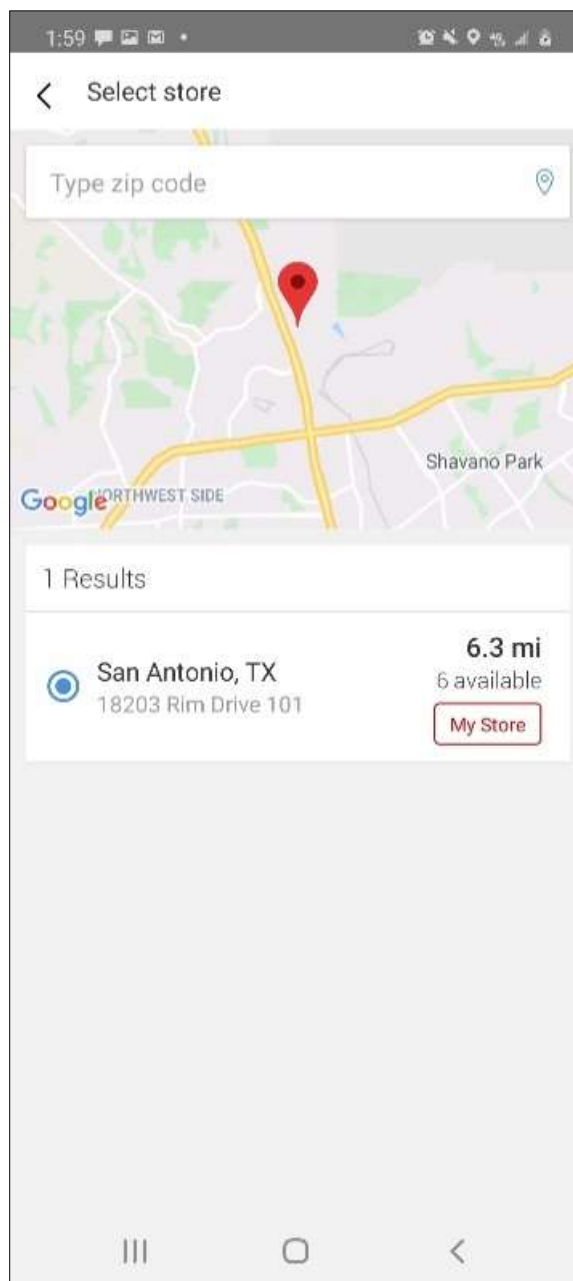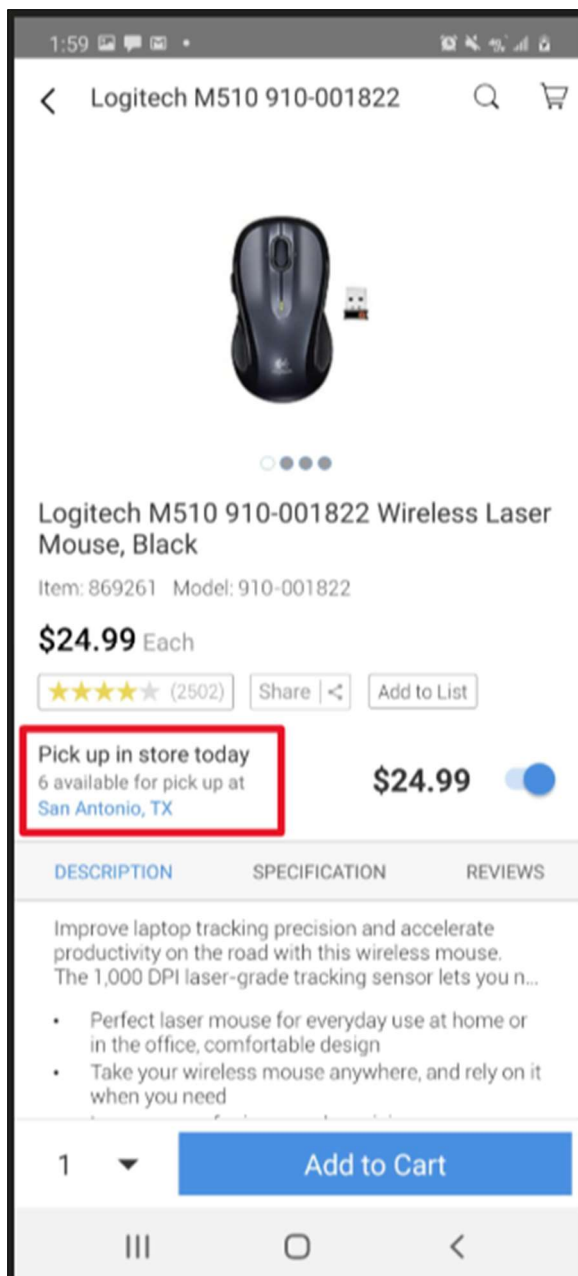
(Screenshot from Staples mobile application)

14.   The Staples App relies on a remote server to function, which executes programing instructions to provide a rules engine.
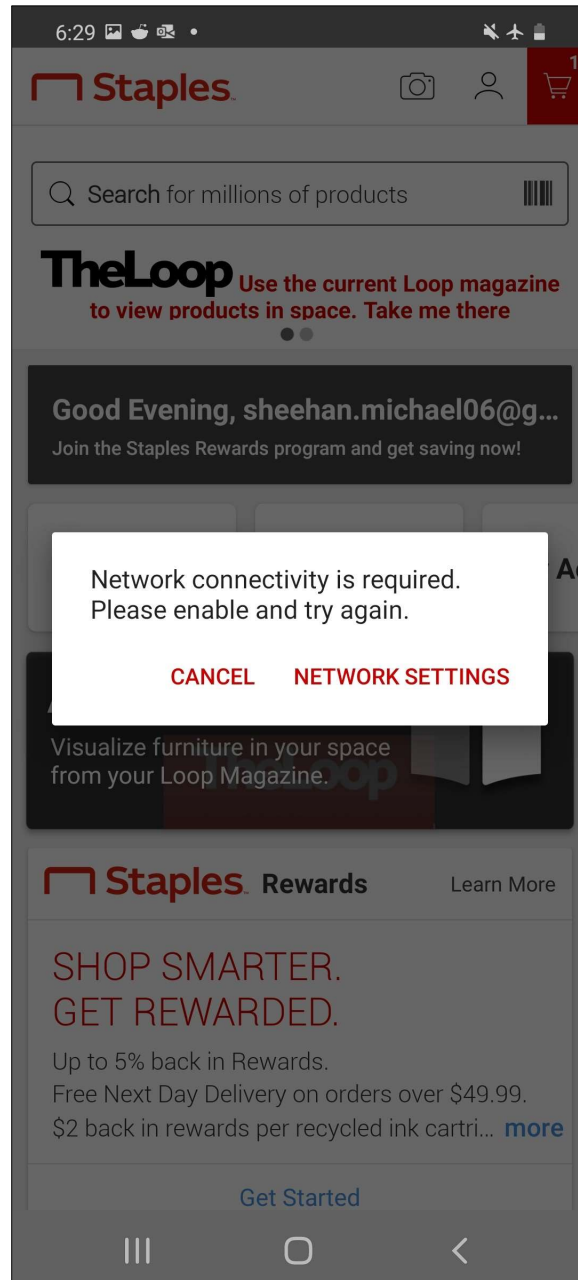
(Screenshot from Staples mobile application)

15.   The Staples App provides an indication of permission to provide the mobile device

a notification with an associated notification criterion.
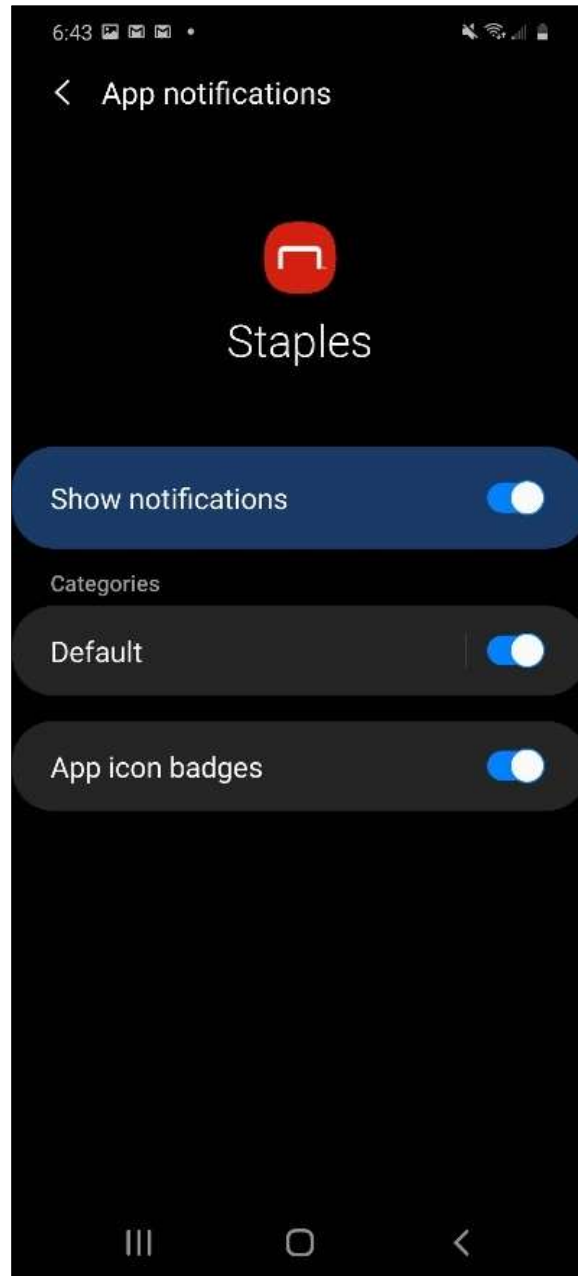
(Screenshot from Staples mobile application)

16.   The Staples App stores data associated with one or more inventory attributes, such as when and whether an item is in stock at a store.
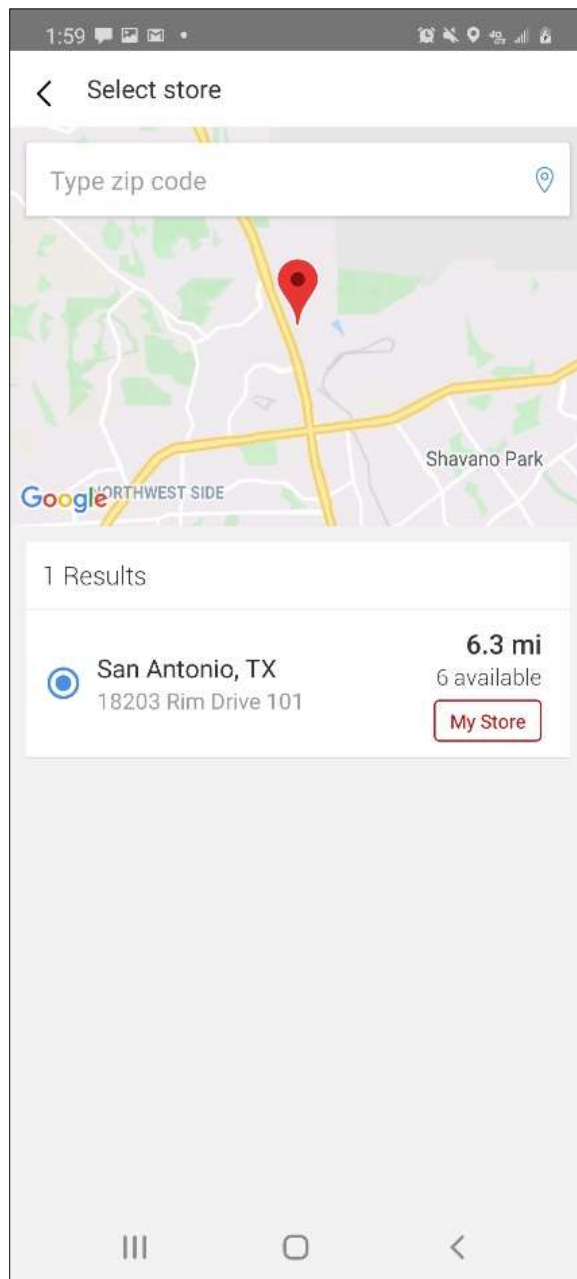
(Screenshot from Staples mobile application)

17.   The Staples App generates a message for delivery to the mobile communication device if at least one matching rules in the rules engine is triggered and the notification criteria are met (e.g. locations and in-stock).
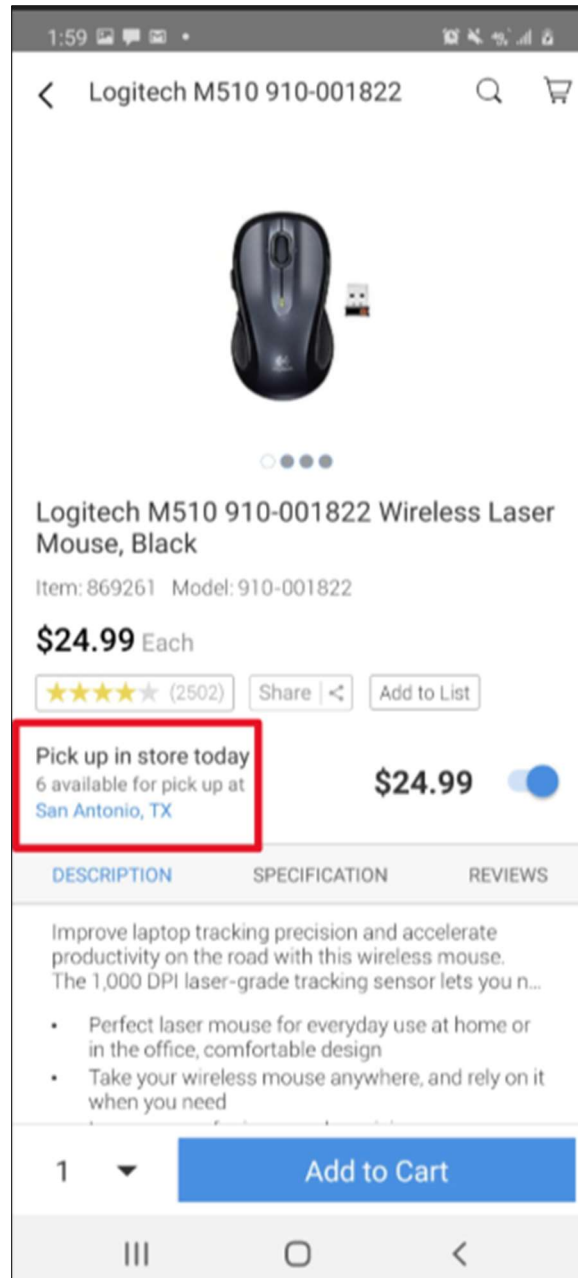
(Screenshot from Staples mobile application)

18.   The message Staples generates identifies a supplier with inventory that the user has expressed interest in.
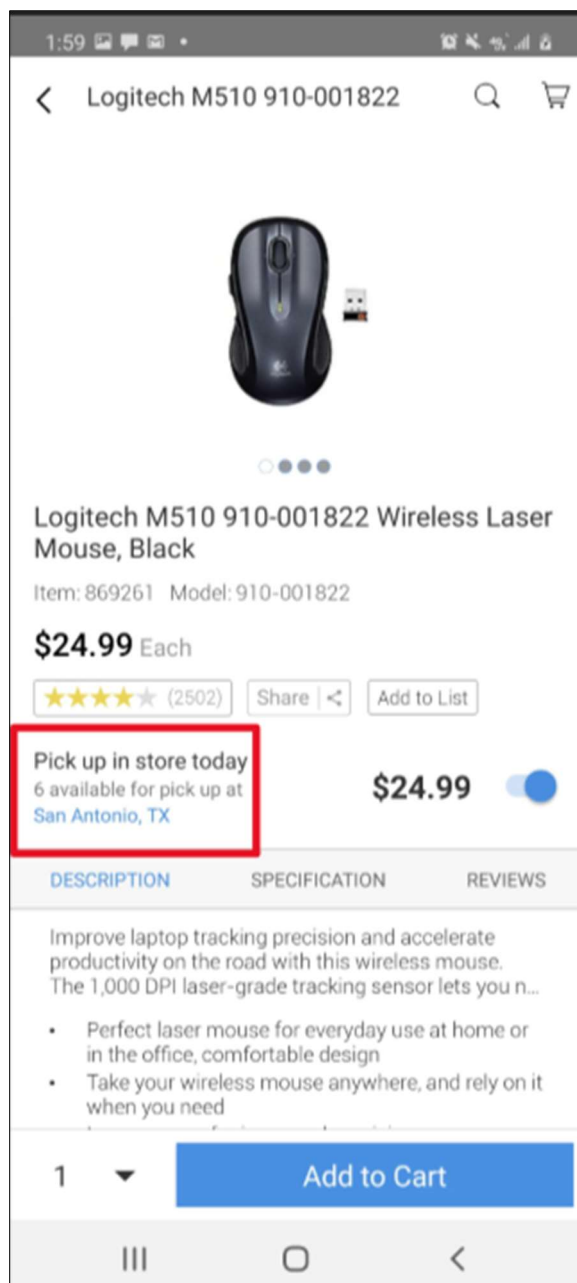
(Screenshot from Staples mobile application)

19.   If appropriate criteria are met, the Staples App delivers an appropriate message to the user's device.
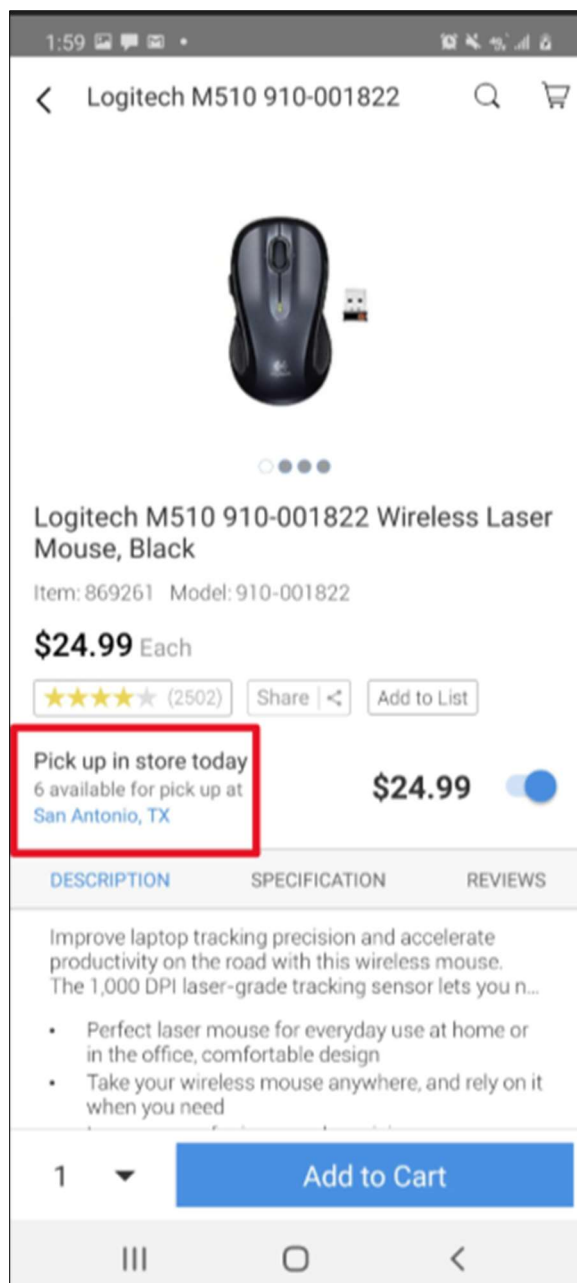
(Screenshot from Staples mobile application)

COUNT I
(Infringement of U.S. Patent No. 7,706,819)

20.   Aeritas incorporates paragraphs 1 through 19 as though fully set forth herein.

21.   Plaintiff is the owner, by assignment, of U.S. Patent No. 7,706,819 (the "'819 Patent"), entitled MIXED-MODE INTERACTION, which issued on April 27, 2010.

22.   The '819 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

23.   Defendant has been and is now infringing one or more claims of the '819 Patent under 35 U.S.C. § 271 by making and using the Staples App with users' iOS and Android devices and the Staples server in the United States without authority.

24.   Defendant has also infringed the '819 Patent by encouraging users of the Staples App to use the user's iOS or Android devices with the Staples App to practice the claims of the '819 Patent.

25.   Claim 1 recites:

1.   A method comprising:

receiving spoken input from a wireless communication device;

obtaining data identifying a current location of the wireless communication device;

based on the current location of the wireless communication device and the spoken input, retrieving information;

delivering, to the wireless communication device by a notification server, a non-verbal response to the spoken input, the non-verbal response based on the retrieved information and including a drill-down menu by which additional information related to the retrieved information can be obtained; and

providing additional information related to the retrieved information in response to receipt of at least one additional input provided via the drill-down menu.

26.   More particularly, Defendant infringes at least claim 1 of the '819 Patent. Defendant receives spoken input from a wireless communication device (e.g., when a user searches for a product using voice input). Defendant obtains data identifying the current location of the mobile device (e.g., as evidenced by permissions required to access the device's location and subsequent provision of location-based information and the location of the device on a search result map). Based on the location and the spoken input, Defendant retrieves information (e.g., the nearby availability of the product subject to the voice search). Defendant delivers to the wireless device by a notification server, a non-verbal response to the spoken input, the non-verbal response based on the retrieved information and including a drill-down menu by which additional information related to the retrieved information can be obtained (e.g., product information and nearby store availability). Defendant provides additional information related to the retrieved information in response to receipt of at least one additional input provided via the drill-down menu (e.g., distance and other information about a nearby store in response to selection of the "Pickup in store today" link).

27.   Aeritas has been damaged by Defendant's infringing activities.

COUNT II
(Infringement of U.S. Patent No. 8,055,285)

28.   Aeritas incorporates paragraphs 1 through 19 as though fully set forth herein.

29.   Plaintiff is the owner, by assignment, of U.S. Patent No. 8,055,285 (the "'285 Patent"), entitled MIXED-MODE INTERACTION, which issued on November 8, 2011.

30.   The '285 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

31.   Defendant has been and is now infringing one or more claims of the '285 Patent

under 35 U.S.C. § 271 by making and using the Staples App with users' iOS and Android devices

and the Staples server in the United States without authority.

32.   Defendant has also infringed the '285 Patent by encouraging users of the Staples

App to use the user's iOS or Android devices with Staples App to practice the claims of the '285

Patent. Defendant has notice of the '285 Patent at least as of the date of service of this complaint.

33.   Claim 1 recites:

1.   A method, comprising:

at a first time, receiving and storing an input in a user profile in a database,

the input comprising consumer interest data;

at a second time distinct from the first time, obtaining data identifying a

current location of the mobile communication device;

based on the input stored in the user profile and the current location of the

mobile communication device, initiating a search to locate

information pertinent to the input;

receiving results derived from the search; and

in response to the input and the search, delivering, by a notification server,

information to the mobile communications device.

34.   More particularly, Defendant infringes at least claim 1 of the '285 Patent.

Defendant receives and stores an input in a user profile in a database, the input comprising

consumer interest data. At a second time, data identifying a current location of the mobile

communications device on which the Accused Instrumentality is installed is obtained. Based on

the input and location, Defendant performs a search to locate pertinent information (e.g., nearby

stores and available products) and receive the results of such search, distance from mobile device. Defendant then provides the information to the mobile communications device.

35.   Aeritas has been damaged by Defendant's infringing activities.

COUNT III
(Infringement of U.S. Patent No. 8,620,364)

36.   Aeritas incorporates paragraphs 1 through 19 as though fully set forth herein.

37.   Plaintiff is the owner, by assignment, of U.S. Patent No. 8,620,364 (the "'364 Patent"), entitled MIXED-MODE INTERACTION, which issued on December 31, 2011.

38.   The '364 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

39.   Defendant has been and is now infringing one or more claims of the '364 Patent under 35 U.S.C. § 271 by making and using the Staples App with users' iOS and Android devices and the Staples server in the United States without authority.

40.   Defendant has been and is now infringing the '364 Patent by encouraging users of the Staples App to use the user's iOS or Android devices with the Staples App to practice the claims of the '364 Patent. Defendant has notice of the '364 Patent at least as of the date of service of this complaint.

41.   Claim 1 recites:

    1. Apparatus, comprising:

        a processor;

        computer memory holding computer program instructions to execute a rules engine that correlates data identifying a location of a mobile communication device, consumer interest data, data associated with one or more inventory attributes, and notification criteria that defines

when a notification is to be delivered to the mobile communications device and a type of such notification and to generate a message for delivery to the mobile communication device if at least one matching rule in the rules engine is triggered and the notification criteria are met, the message identifying one or more suppliers in the location with inventory that a user of the mobile communications device has expressed an interest in as indicated by the consumer interest data; and

computer memory holding computer program instructions executed by the processor to selectively deliver the message to the mobile communications device according to the notification criteria.

42.   More particularly, Defendant infringes at least claim 1 of the '364 Patent. On information and belief, Defendant employs a processor and computer memory holding computer program instructions to perform the functions described above. Defendant receives data indicating permission to provide a notification to a mobile device user in accordance with notification criteria. At a given time, Defendant determines the location of the mobile device. Based on the location and notification criteria, Defendant provides at least a visual alert notification. Defendant receives second data as a result of an input being received at the mobile device, retrieves information associated with the input and location, and provides responsive information to the mobile device. On information and belief, the program instructions include first and second components of a rules engine to evaluate notification criteria and execute notification rules.

43.   Aeritas has been damaged by Defendant's infringing activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against

Defendant:

1.   declaring that the Defendant has infringed the '819, '285 and '364 Patents;

2.   awarding Plaintiff its damages suffered as a result of Defendant's infringement of

the '819, '285 and '364 Patents;

3.   awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and

4.   granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: September 20, 2022   Respectfully submitted,

                                               /s/ Raymond W. Mort, III
                                               Raymond W. Mort, III
                                               Texas State Bar No. 00791308
                                               raymort@austinlaw.com

                                               THE MORT LAW FIRM, PLLC
                                               106 E. Sixth Street, Suite 900
                                               Austin, Texas 78701
                                               Tel/Fax: (512) 865-7950

                                               **ATTORNEYS FOR PLAINTIFF
                                               AERITAS, LLC**